

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael LaMastra	Team: Team # 8	CCRB Case #: 200203321	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/20/2002 3:00 AM	Location of Incident: 79th Precinct station-house	Precinct: 79	18 Mo. SOL 11/20/2003	EO SOL 11/20/2003	
Date/Time CV Reported Mon, 05/20/2002 12:57 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/20/2002 12:57 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Carlos Fabara	14229	922317	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Carlos Fabara	Discourtesy: PO Carlos Fabara acted rudely toward § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Carlos Fabara	Abuse: PO Carlos Fabara threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]

Synopsis

On 5/20/02, at approximately 3:00 AM, § 87(2)(b) was arrested by PO Fabara for Impersonating an Officer and Grand Larceny. § 87(2)(b)'s mother, § 87(2)(b) called the 79th Precinct in an attempt to get information about the conditions of his arrest. § 87(2)(b) spoke with an officer who identified himself as PO Fabara. § 87(2)(b) stated that this officer was very rude and abrupt and reported that he hung-up on her [Allegation A]. After § 87(2)(b) was permitted to speak to § 87(2)(b) he reported to her that PO Fabara threatened him with the use of force [Allegation B]. § 87(2)(g)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b) nurse, called the CCRB on 5/20/02 and issued the following complaint. On May 20, 2002, an officer described as PO Jabara (later identified as PO Fabara) arrested her § 87(2)(b) son, § 87(2)(b) in the confines of the 79th Precinct. § 87(2)(b) stated that she did not know how to get to her son and that officers would not give her any information over the phone when she called the 79 Precinct. § 87(2)(b) referenced a phone number for arraignment information and discovered that § 87(2)(b) was arrested § 87(2)(a) 160.50

§ 87(2)(b) stated that officers refused to give her any information and that PO Fabara hung-up the phone on her when she called the precinct numerous times. § 87(2)(b) maintained that her son was never arrested prior to this incident, § 87(2)(b)

§ 87(2)(b) stated that she does not understand why the police arrested her son, because according to her, § 87(2)(b) was working in civilian clothes at the time he was arrested.

§ 87(2)(b) initially stated that she has not heard from her son, but later admitted that after the second time she called the precinct, she was permitted to speak with her son. § 87(2)(b) told her that his Miranda rights were not read, and that upon his arrival to the 79th Precinct, PO Fabara was laughing and joking around. § 87(2)(b) reported that PO Fabara said, "welcome to the 79th," to which § 87(2)(b) responded "oh." § 87(2)(b) added that PO Fabara responded: "shut-up before I wrap a crow bar around your neck."

§ 87(2)(b) stated that she wanted PO Fabara fired, because to her knowledge, her son did nothing wrong. She contends that PO Fabara did not give her directions to the precinct, nor did he speak to her in a respectful fashion.

§ 87(2)(b) added that he was missing jewelry that he had in his possession before his arrest. § 87(2)(b) was not given a voucher for this property, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)'s request to mediate her complaint against PO Fabara was rejected by the ADR committee on 6/24/02. After her request was denied, § 87(2)(b) stated that she could not come in to make a statement, however, she did not want to withdraw her complaint. Due to § 87(2)(b)'s work schedule and her inability to drive to Manhattan, she was unable to travel from her home in Merrick, Long Island to the CCRB to make a statement. After she returned from a prolonged summer vacation, a telephonic interview was conducted on 9/12/02, in which § 87(2)(b) testified to the following facts [Encl. C1-C2].

On the morning of May 20, 2002, § 87(2)(b) returned home after working § 87(2)(b). § 87(2)(b) checked her phone messages, and listened to a message left by his sister, which explained that her § 87(2)(b) son, § 87(2)(b) had been arrested and was in custody. Shortly after receiving this message, § 87(2)(b) called § 87(2)(b) to inform her that he was being held at the 79th Precinct. § 87(2)(b) stated that her son was not permitted to speak long, so she referenced the phone number of the 79th Precinct from her caller-id and called the precinct. § 87(2)(b) wanted to speak to her son again and discover why he had been arrested. She described her demeanor as "very upset," due to the fact that her son was in custody and that she was exhausted from working § 87(2)(b).

§ 87(2)(b) stated that the officer who answered the phone identified himself as PO Fabara. § 87(2)(b) stated that PO Fabara was “abrupt and rude,” and did not disclose why § 87(2)(b) was arrested. It is § 87(2)(b)'s opinion that PO Fabara was intentionally trying to make her upset, and that her intensifying stress pleased him. After PO Fabara hung-up on her several times, § 87(2)(b) spoke with other officers, who also withheld § 87(2)(b)'s arrest information.

After § 87(2)(b) was released, § 87(2)(b) stated that he complained to her about the search of his car and the seizure of his identification and jewelry. He also reported to her that PO Fabara, the arresting officer, told him: “shut up, or I’ll wrap a crow-bar around your neck,” upon entering the precinct.

In regard to § 87(2)(b)'s criminal charges, § 87(2)(b) stated that § 87(2)(b) was not prosecuted because the criminal complainant failed to appear in court.

Results of Investigation

§ 87(2)(b)

After initially contacting § 87(2)(b) on 6/6/02, § 87(2)(b) was advised by his attorney not to give a statement to the CCRB while his criminal charges were pending. As a result, no attempt were made to contact § 87(2)(b) during the duration of the investigation of § 87(2)(b)'s complaint, until § 87(2)(b)'s § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]. Due to § 87(2)(b)'s distance from the CCRB, and limited availability, he was interviewed telephonically on 10/16/02, in which he testified to the following facts [Encl. D1-D3].

On 5/20/02, § 87(2)(b) was on-duty in his former job § 87(2)(b)

At approximately 2:30 AM, § 87(2)(b) arrived to his designated drop off location at Putnam and Throop Avenue with two unidentified female escorts. These escorts, one white female and one black female, experienced difficulty in gaining access to the basement apartment. While the escorts were trying to enter the premises, an unidentified woman of large stature yelled from the third floor window, asking whether the escorts and § 87(2)(b) were members of the police department.

§ 87(2)(b) recalled that while he was parked outside of the “drop-off location,” he accidentally operated a dashboard mounted blue-bubble light § 87(2)(b). When the woman in the third-floor window asked if § 87(2)(b) and the escorts were police, § 87(2)(b) stated that he was silent, while one of the escorts said “yes, we are the police,” in a sarcastic tone. § 87(2)(b) maintained that the bubble light was not in operation when the woman asked whether they were police.

Approximately 10-15 minutes passed since they arrived in front of the drop off location, when several police officers arrived on the scene and “boxed-in” § 87(2)(b)'s vehicle. Officers questioned § 87(2)(b) and asked where he was going and where he came from. § 87(2)(b) was also questioned about the blue-bubble light, which he accounted for by telling the officers that § 87(2)(b)

After answering several questions about § 87(2)(b), § 87(2)(b) was asked to step out of the car. § 87(2)(b) described his demeanor at this point as irritated. He stated “this is really ridiculous, why are you doing this,” to which an officer responded “you should stay cool.” Officers began searching his vehicle, while an officer identified as PO Fabara arrested § 87(2)(b). Before § 87(2)(b) was transferred from the scene, § 87(2)(b) was taken from the police car so that the criminal complainant could look at him.

While PO Fabara transported § 87(2)(b) to the precinct, § 87(2)(b) asked PO Fabara why he was being arrested on three-separate occasions. PO Fabara finally explained that he was being arrested for § 87(2)(a) 160.50 and he also told § 87(2)(b) that he “must be pretty stupid.”

As § 87(2)(b) was escorted into the precinct, he recalled that PO Fabara told him “welcome to the 79th!” After § 87(2)(b) answered “ok,” PO Fabara issued a verbal threat of force. § 87(2)(b) cannot remember what he was told specifically, but he stated that it had something to do with PO Fabara punching him. In response to this threat § 87(2)(b) told PO Fabara: “don’t touch me, or I’ll cry assault!” PO Fabara responded, “if you don’t shut the fuck up, I’m going to wrap a crow bar around your neck.”

§ 87(2)(b) noted that PO Fabara pointed to a crow bar that was propping the door to a room in the precinct, when he uttered the above statement.

While § 87(2)(b) was held at the precinct, his mother complainant-victim, § 87(2)(b) called the precinct numerous times. § 87(2)(b) stated that he was not allowed to use the phone until 15 hours after he was arrested, however, he was permitted to speak with his mother when she called the precinct. § 87(2)(b) was permitted to speak to § 87(2)(b) at approximately 2:30 PM on 5/21/02. § 87(2)(b) mentioned that he was held for six hours before he was sent to central booking. While he was held at the precinct, § 87(2)(b) felt like PO Fabara was trying to induce him to offer a bribe because PO Fabara asked him: “give me one good reason why I shouldn’t process you.” § 87(2)(b) stated that he cooperated with PO Fabara, and that he did not resist during his arrest or lodging.

During § 87(2)(b)’s arraignment, he was asked if he was on medication. § 87(2)(b) acknowledged that he was on a daily prescription of Zoloft and Elempuranol (for his kidneys). § 87(2)(b) was taken to the hospital to prevent missing any dosages.

§ 87(2)(b) returned to court and was charged § 87(2)(a) 160.50. § 87(2)(b) was released on his recognizance at approximately 2:00 AM on 5/21/02.

PO Carlos Fabara

Carlos Fabara, a § 87(2)(b) old police officer was interviewed by the CCRB on November 19, 2002, in which he testified to the following facts [Encl. F1-F2]. On May 20, 2002, PO Fabara worked from 11:15 PM to 7:15 AM. PO Fabara was assigned to sectors ABCD in marked RMP 1323 with PO Figueora. According to PO Fabara’s memobook [Encl. E1-E2], ‘at 2:20 AM received a 10-10 call for help at § 87(2)(b),’ and ‘at 2:49 AM, one under, § 87(2)(b) § 87(2)(b) of § 87(2)(b) § 87(2)(a) 160.50.’

On May 20, 2002, at approximately 2:20 AM, PO Fabara responded to a call that reported someone was possibly impersonating the Nassau County Police. The call included the description of a male-white, female-white, and female- black.

When PO Fabara arrived on the scene, he saw a car parked a few addresses from the location of the criminal complainant with three people inside that fit the radio description. PO Fabara began questioning the parties, which included a white-male, later identified as, § 87(2)(b). PO Fabara found that the each individual statement was in conflict with the other, and it was his opinion that § 87(2)(b) and the two females were lying.

PO Fabara recalled that § 87(2)(b) told him that he was only in the area because he was lost. While he questioned § 87(2)(b) PO Fabara noticed that there was a blue-bubble light inside the car. § 87(2)(b) stated to PO Fabara that he used the light for § 87(2)(b).

While he was on the scene PO Fabara questioned the criminal complainant, who stated that the perpetrator identified himself as a Nassau County Police officer and operated a blue-light. The criminal complainant made a positive identification of § 87(2)(b) on sight.

After approximately 24 minute of questioning the parties, PO Fabara arrested § 87(2)(b). He did not remember if he transported § 87(2)(b) nor did he remember § 87(2)(b) demeanor at the time of his arrest. PO Fabara also could not recall whether he told § 87(2)(b) to “shut-up,” or whether he told § 87(2)(b) that he was “going to wrap a crow around his neck.”

PO Fabara did not remember if he spoke with § 87(2)(b), § 87(2)(b)’s mother. In an effort to refresh recollection, PO Fabara listened to a 15-second recorded statement made by § 87(2)(b). PO Fabara did not recognize § 87(2)(b)’s voice, and he could not recall if he hung up the phone on anyone on 5/20/02. PO Fabara did recall being informed that § 87(2)(b) called several times on the night of § 87(2)(b)’s arrest.

Police Documents

The complaint report [Encl. H1-H5], filed by § 87(2)(b) stated that while she was home sleeping at her residence, § 87(2)(b), she was approached by a male-white, who was accompanied by a female-black and a female-white at approximately 2:15 AM. The male identified himself as a Nassau County Police officer and told § 87(2)(b) that if she did not give him money, he would break all of the windows in her home.

The 79th Precinct roll-call for 5/20/02 [Encl. G1-G4], lists PO Fabara as scheduled to work in sector ABCD from 11:15 PM to 7:50 AM. According to the on-line booking sheet [Encl. I1-I2], PO Fabara arrested § 87(2)(b) on the northeast corner of § 87(2)(b) and § 87(2)(b) without force at 2:49 AM. § 87(2)(b) was charged § 87(2)(a) 160.50. The details section of the on-line booking sheet reported at time and place of occurrence, § 87(2)(a) 160.50.

It is noted on the defendant calls section that § 87(2)(b) refused to make a phone call at 2:49 AM.

According to the command log, § 87(2)(b) was lodged at the precinct at 2:55 AM. He was taken to central booking at 2:00 PM, and then transported to § 87(2)(b) 3:50 PM.

Criminal Court Information

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Criminal Conviction History of Civilian Parties

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB Complaint Substantiation History of Officers

PO Carlos Fabara does not have any substantiated CCRB complaints.

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) stated that the officer who was rude to her, withheld her son's arrest information, and hung-up on her identified himself as PO Fabara. § 87(2)(b) was initially unsure of the officer's name and stated that she thought it was "PO Jabra," and she explained that it was the arresting officer. According to the OLBS, the arresting officer was PO Fabara.

Undisputed Facts

The following material facts are not in dispute. § 87(2)(b) was working on the night of May 20, 2002, § 87(2)(b) when PO Fabara and other officers approached him as he was stopped near § 87(2)(b). § 87(2)(b) was with two women when the officers approached him. After the officers questioned § 87(2)(b) and the females, PO Fabara arrested § 87(2)(b). § 87(2)(b) was brought to the 79th Precinct at approximately 2:49 AM, until he was taken to central booking at 2:00 PM on May 21st. While § 87(2)(b) was waiting to be brought to central booking, his mother, § 87(2)(b) called the precinct numerous times, and § 87(2)(b) was permitted to speak with § 87(2)(b).

Credibility

§ 87(2)(b)'s initial statement made 10 hours after her son's arrest was presented in direct response to her son's arrest. § 87(2)(b), § 87(2)(g). § 87(2)(b) initially stated that she was not permitted to speak to her son since he was arrested but then corrected her statement by saying that she was only allowed to speak to him for a short time. § 87(2)(b) stated that despite her many calls to the precinct, she was not provided with any information about her son's arrest, nor was she issued directions to the 79th Precinct.

§ 87(2)(g), § 87(2)(b)

After her son was released, her goals behind her CCRB complaint changed significantly from wanting PO Fabara's employment terminated to wanting to mediate her complaint. After her request to mediate was denied, she became increasingly difficult to reach. § 87(2)(b) refused to come to Manhattan in order to make a statement, § 87(2)(g)

§ 87(2)(b) was advised not to give a statement to the CCRB while his criminal charges were pending. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b), § 87(2)(g)

he denied impersonating a police officer. Instead, § 87(2)(b) stated that the white female escort told the criminal complainant that he accidentally turned on his dashboard mounted blue-bubble light by inadvertently bumping into the power attachment, which was plugged into the cigarette lighter. He reported that this accident occurred twice before the police arrived.

According to the criminal complaint filed against § 87(2)(b) the complainant alleges that he identified himself as a Nassau County Police Officer. § 87(2)(g)

§ 87(2)(b) flatly denied that he even addressed the criminal complainant at any time when he was on the scene.

While in custody, he reported that PO Fabara threatened to punch him, however he could not remember what was exactly said. § 87(2)(b) remembered that PO Fabara said "shut-up or I'll wrap a crow bar around your neck," and he added that PO Fabara pointed to a crow bar that was propping a door in the precinct open.

§ 87(2)(b) stated that he was not given a phone call until 15 hours after his arrest, but he later explained that although he was not able to call anyone, he was permitted to speak to his mother while he was lodged in the 79th Precinct.

§ 87(2)(g). During PO Fabara's interview, he recalled the incident but he did not recall the specific allegations associated with the complaint. PO Fabara answered questions regarding § 87(2)(b)'s arrest in great detail, however, he could not remember if he spoke with § 87(2)(b) or if he threatened § 87(2)(b) with physical force.

Allegation A: PO Fabara acted rudely toward § 87(2)(b)

After § 87(2)(b) was informed that her son was arrested, she called the 79th Precinct numerous times in order to get information about her son's arrest. § 87(2)(b) stated that an officer identified as PO Fabara handled a couple of her calls. She alleged that PO Fabara was rude to her by hanging-up on her, and by refusing to give her any information about her son's arrest.

According to Patrol Guide procedure 208-03 section 16 [Encl. 8], officers are only required to give notification to relatives of a prisoner who are under 19-years old. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

PO Fabara could not recall whether he spoke to § 87(2)(b) on 5/20/02, and as such, he could not describe her demeanor. However, according to § 87(2)(b)'s CCRB statement, she described her demeanor as "very upset" while she was speaking with PO Fabara.

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation B: PO Fabara threatened § 87(2)(b) with the use of physical force.

§ 87(2)(b) alleged that PO Fabara threatened to punch him, but he could not remember how PO Fabara issued this threat. In response, § 87(2)(b) told PO Fabara, "don't touch me, or I'll cry assault!" § 87(2)(b) stated that PO Fabara answered his warning by stating "shut-up, or I'll wrap a crow-bar around your neck." § 87(2)(b) added that PO Fabara said this as he was pointing to a crow-bar that was propping a door in the precinct open.

§ 87(2)(g), § 87(2)(b)
[REDACTED]
[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: